

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
The Missoula Plan Intercarrier)	CC Docket No. 01-92
Compensation Reform Plan)	DA 06-1510

COMMENTS OF THE EASTERN RURAL TELECOM ASSOCIATION

October 25, 2006

Ray J. Riordan
Eastern Rural Telecom Association
7633 Ganster Way, Suite 202
Madison, WI 53719
(608) 829-3530

INTRODUCTION

The Eastern Rural Telecom Association (ERTA) is an association of rural Incumbent Local Exchange Carriers (ILEC) with 165 members that provide local exchange service in the states that are east of the Mississippi River. The members of ERTA qualify as Track 3 carriers under the provisions of the Missoula Plan. ERTA strongly supports the adoption of the Missoula Plan that was filed with the Federal Communications Commission (FCC or Commission) on July 24, 2006, as it provides an appropriate process for reforming intercarrier compensation (ICC).

REFORM OF INTERCARRIER COMPENSATION IS NEEDED TODAY, NOT TOMMOROW

There is almost universal recognition that (1) there are fatal systemic problems with the present method of intercarrier compensation; (2) those problems continue to grow and may cause the system to fail; and (3) they must be corrected soon. The various rates charged to other carriers for the use of a carrier's network to originate or terminate traffic has led to arbitrage opportunities especially when the originating carrier misidentifies the jurisdiction of the traffic. Also, carriers are unable to bill for traffic terminated on their networks that are delivered without the necessary billing information (called "phantom traffic") that is often not provided by the originating carrier and, the emergence of VoIP and other IP services has made high access rates unsustainable. Together, these factors make it necessary to reform the current ICC regime today, not tomorrow.

THE MISSOULA PLAN IS THE RIGHT SOLUTION

When reforming ICC, the FCC needs to incorporate the following concepts, which are essential for rural rate-of-return carriers:

- Revisions to the existing intercarrier compensation framework must recognize distinctions applicable to ILECs subject to rate-of-return regulation;
- Rural rate-of-return ILECs are entitled to establish cost-based intercarrier compensation rates that recognize the value other carriers receive when they use the rural network to originate and terminate traffic;
- To the extent that changes in the existing intercarrier compensation rates are imposed on rural rate-of-return ILECs, rural carriers must receive recovery of the otherwise displaced interconnection revenue from a new and sustainable access element that is only available to carriers that experience such imposed intercarrier rate reductions; and
- To the extent that changes in the existing interconnection rules are undertaken, those rule changes must reflect the operational and legal realities that limit the obligations of rural ILECs to undertake financial responsibility for the transport of traffic beyond their networks.

The Missoula Plan achieves these concepts by incorporating several key provisions that are essential for rural carriers. Specifically, the Missoula Plan:

- Minimizes the rate differences between regulatory jurisdictions and between services and thus should minimize arbitrage;
- Recognizes the differences between carriers, rather than application of a one-size-fits-all approach;
- Uses telephone numbers as the basis for determining the category of charges that will be applied, which will resolve the majority of disputes over whether traffic is subject to switched access or reciprocal compensation;
- Retains revenues lost as intercarrier rates are reduced in order to insure that critical revenues are still available to provide basic and advanced services in rural areas that are comparable to those provided in urban areas and to invest in the infrastructure that supports not only incumbent services but also wireless, IP and other services that utilize that rural infrastructure;
- Resolves many issues that have and continue to consume enormous resources of carriers and Commissions. For instance, the proposed Plan (a) defines whether calls are non-access or access; (b) resolves the intraMTA calling issues; (c) deals with the virtual NXX issue; (d) provides rules to resolve phantom traffic conflicts, etc.;
- Phased-in over time rather than a flash-cut allowing for an efficient transition to a completely new ICC regime; and
- Addresses the phantom traffic problem by quickly requiring carriers to

provide accurate signaling information to facilitate call identification and implementing other interim orders.

Given these provisions, the Missoula Plan provides the right incentives for rural carriers to continue to invest in their networks while providing high quality services to their customers as well as offering them advanced services, particularly broadband service.

THE PHANTOM TRAFFIC RULES NEED TO BE IMPLEMENTED

If the FCC chooses not to act expeditiously in reforming ICC, ERTA urges the FCC to immediately adopt the Phantom Traffic rules proposed in the Missoula Plan rather than awaiting action on the larger ICC reform proceeding. The Phantom Traffic proposal set forth in the Missoula Plan largely represents the views of an industry cross-section. The adoption of this proposal now will provide clear and reasonable rules to stem the still growing numbers of minutes that cannot be billed because proper identification is lacking. An effective enforcement mechanism needs to be defined.

THE MISSOULA PLAN IS A GOOD COMPROMISE

The Missoula Plan to reform intercarrier compensation may not be perfect from any party's perspective; however, it reflects an extraordinary effort and encompasses many valuable concepts that warrant consideration by the FCC. While there is substantial support for the proposal within the rural

community, some concerns remain. In particular, the Plan hinges on the creation of the described Restructure Mechanism (RM) to replace the access revenues displaced when intercarrier compensation rate levels are reduced. These revenues are absolutely essential to the maintenance and upgrading of networks in rural areas and the provisioning of universally available basic and advances services. Therefore the RM must be sustainable. ERTA, as well as the other supporters of the Missoula Plan, recognize that without the RM, the Missoula Plan will not work.

CONCLUDING COMMENTS

Long term investments in rural areas are dependent on a reasonable probability that the investor will make a just earnings and recover his/her capital. Unfortunately, revenues for rural ILECs are quickly eroding because other entities are able to use the rural ILEC's facilities while paying substantially less than the legal rate or in many cases paying nothing at all. These losses are rapidly growing and something needs to be done immediately in order to keep the rural ILECs investing in their networks to maintain a quality network while bringing new technology in sparsely populated areas of the nation which is critical for commerce, education, communications, entertainment, medical care, and almost all other aspect of society for the rural areas.

The Missoula Plan was developed after months of discussion and negotiation among industry representatives along with guidance from the National Association of Regulatory Utility Commissioners representatives. It is not the plan that any sector of the industry ideally wanted, but it is one that most of the entities within the industry are willing to accept. For the rural ILECs, it will cause some significant new costs that are not recovered in the plan (e.g. billing costs, call verification dipping expenses, etc), but it provides a stable regulatory environment that will encourage investment and growth. Hopefully, this cooperative process will set a model that others will use to address future disputes among industry sectors rather than the adversarial method that has too often prevailed.

Given the aforementioned reasons, Eastern Rural Telecom Association urges the Commission to:

- Adopt the Missoula Plan;
- Adopt the proposed interim solution for phantom traffic as soon as possible if it does not act immediately on reforming ICC with an effective enforcement mechanism; and
- Put great weight on the fact that a reasonable cross-section of the industry has negotiated this Plan within a give and take setting, but while it is not the plan that any sector of the industry ideally wanted it is one that most of the entities within the industry are willing to accept.

Respectfully submitted,
**EASTERN RURAL TELECOM
ASSOCIATION**

Ray J. Riordan
General Counsel
7633 Ganser Way, Suite 202
Madison, WI 53719
(608) 829-3530

Dated: October 25, 2006